

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

In re:

IBCS Mining, Inc., et al.,¹

Debtors.

Chapter 11
Case No. 14-61215
Jointly Administered

DEBTORS' MOTION TO SELL EQUIPMENT

IBCS Mining, Inc., et al., as debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”), by their counsel, respectfully request (the “**Motion**”) the Court, pursuant to sections 105 and 363 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) to enter an order approving the sale of certain of the Debtors’ Equipment (as defined herein). In support of the Motion, the Debtors state as follows:

1. On June 27, 2014 (the “**Petition Date**”), each Debtor commenced with this Court a voluntary case under Chapter 11 of Title 11 the United States Code (the “**Bankruptcy Code**”).

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number include: IBCS Mining, Inc. (8425) and IBCS Mining, Inc., Kentucky Division (8711). The location of the Debtors’ service address is 3566 Teays Valley Road, Hurricane, West Virginia 25526.

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The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. By Order entered July 8, 2014 [Docket No. 67], the Debtors' Chapter 11 cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

3. The United States Bankruptcy Court for the Western District of Virginia (the "**Court**") has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and may be determined by the Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. As part of the estates' assets, the Debtors possess the following equipment (the "**Equipment**"):

- Manufacturer: Gorman-Rupp Model: 16C2F4L Description: 6" Portable Water Machine Type: Pump
S/N: 1425103
- Manufacturer: Caterpillar Model: XQ75 Description: 75 KW Skid Mounted Machine Type: Generator Sets - Industrial
S/N: PAPF01424
- Year: 2004 Manufacturer: Magnum Model: MLT3060
Description: Portable 4000W Machine Type: Light Tower
S/N: 46409
- Year: 2010 Manufacturer: Terex Model: RL4000 Description: Portable 4000W Machine Type: Light Tower
S/N: RL4103416
- Year: 2010 Manufacturer: Terex Model: RL4000 Description: Portable 4000W Machine Type: Light Tower
S/N: RL4103008

5. Contemporaneously herewith, the Debtors have filed the Application of the Debtors to Retain and Employ Ritchie Bros. Auctioneers (America) Inc. as Auctioneer, for the proposed sale of the Equipment.

6. By this Motion, the Debtors seek an order (the “**Sale Order**”), substantially similar to that attached hereto as Exhibit B, approving the sale of the Equipment on the terms of the Contract to Auction attached hereto as Exhibit A.

7. Section 363(b)(1) of the Bankruptcy Code authorizes a trustee to “sell . . . other than in the ordinary course of business, property of the estate.”²

8. Accordingly, the Debtors may sell, other than in the ordinary course of business, property of the estate. See id. §§ 363(b)(1), 1303.

9. After a comprehensive review, the Debtors, in the exercise of their business judgment, believe that the sale of the Equipment represents the Debtors’ best opportunity under the circumstances to maximize the value of the Equipment. In the exercise of the Debtors’ business judgment, the Debtors believe that an auction will generate more value, result in a quicker sale, and cause the Debtors to incur less costs than a private sale. Accordingly, the sale of the Equipment is in the best interests of the Debtors’ estates and the Debtors’ creditors.

10. Within ten (10) business days after the proposed sales are completed, the Debtors will file a notice with the Court indicating the sales price for the Equipment and the corresponding commission paid to Ritchie.

11. No previous request for the relief sought herein has been made to this Court.

² Although section 363 speaks only of the trustee’s ability to do so, a debtor-in-possession is empowered to carry out such sales pursuant to section 1107 of the Bankruptcy Code. 11 U.S.C. § 1107 (“to any limitations on a trustee serving in a case under this chapter, and to such limitations or conditions as the court prescribes, a debtor in possession shall have all the rights, other than the right to compensation under section 330 of this title, and powers, and shall perform all the functions and duties, except the duties specified in sections 1106(a)(2), (3), and (4) of this title, of a trustee serving in a case under this chapter.”).

WHEREFORE, the Debtors respectfully request that the Court enter the Sale Order, substantially in the form attached hereto as **Exhibit B**, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: March 17, 2015

By: /s/ Robert S. Westermann
Counsel

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